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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,982

07/11/2005

Shalom Levin

1911

4426

62433

7590

05/12/2008

EDWARD LANGER

c/o SHIBOLETH YISRAELI ROBERTS ZISMAN & CO.

1 PENN PLAZA-SUITE 2527

NEW YORK, NY 10119

EXAMINER

ALEXANDER, REGINALD

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

05/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,982	<b>Applicant(s)</b> LEVIN, SHALOM	
	<b>Examiner</b> Reginald L. Alexander	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 80-127 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 97-102 is/are allowed.
- 6) ☒ Claim(s) 80-83, 85, 86, 92-94, 96, 103-110, 116, 118-122 and 124-127 is/are rejected.
- 7) ☒ Claim(s) 84, 87-91, 95, 111-115, 117 and 123 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/15/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 82 and 83 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the specification for using one face of the heater/cooling element for cooling and the other for heating as recited in claim 82, or, using one face of the element for heating and cooling as recited in claim 83. The specification fails to support both heating and cooling by a single element.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 82 and 83 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is nothing recited structurally to allow for the claimed heating and cooling by the heating/cooling element. Recitation of a "heating/cooling" element does not define the device structurally as a device which can heat or cool.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 103, 104, 106, 108-110 and 124-127 are rejected under 35 U.S.C. 102(a) as being anticipated by Heczko.

There is disclosed in Heczko a brewing device, comprising: a cup unit including an inner cup 42 and an outer cup 12, the inner cup being spaced apart from the outer cup and defining a chamber 44 for holding liquid therebetween; a heater 22; a brewing element 70, 104 fitting on the inner cup, the brewing element having a pocket 82, 122 containing a beverage material 84, 126 and an outlet (figs. 5, 6) proximate to a periphery of the outer cup.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 105, 116 and 118-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heczko in view of Roberson.

While Heczko includes a controller 140 for the heating element 22 and a power unit 34 and plug arrangement, there is no disclosure of a switch for activating and

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deactivating the heating element or a plug which is usable with an automobile lighter socket.

Roberson discloses with a heater control system, a switch 27 for manually activating and deactivating a heater of the system and a plug 25 which can allow the device to be used in an automobile (col. 5, lines 5-15).

It would have been obvious to one skilled in the art to provide the apparatus of Heczko with the switch taught in Roberson, in order to allow for manual control of the heater along with the thermostatic control.

It would have been obvious to one skilled in the art to modify the power unit and plug arrangement taught in Heczko with that taught in Roberson, in order to allow for operation of the apparatus in an automobile as well as a home location.

Claim 107 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heczko in view of Chang.

Chang discloses the use of ribs mounted to an external support cup.

It would have been obvious to one skilled in the art to provide the external cup of Heczko with the ribs taught in Chang, in order to strengthen the cup.

Claims 80, 81, 85, 86, 92-94 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein in view of Oakley.

There is disclosed in Klein a brewing apparatus, comprising: a container 20 for containing a liquid; a heating element 32 housed in a heating chamber; a pump 29 for drawing liquid from and returning liquid to the container; a sealed compartment having a beverage preparation element 11, the sealed compartment being in the container and

having therein a beverage material 15; and dispenser means including a nozzle 19 and pressure generated within the sealed compartment by entry of hot water.

Oakley discloses the use of a controller in an electrically operated brewing apparatus to control a pump and heater.

It would have been obvious to one skilled in the art to provide the apparatus of Klein with the controller taught in Oakley, in order to organize and automatically operate the elements of the invention.

### ***Allowable Subject Matter***

Claims 84, 97-91, 95, 111-115, 117 and 123 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 97-102 are allowed.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Meador, McCormick, Louridas, Timm and Brown are cited for their disclosure of the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

07 May 2008

/Reginald L. Alexander/  
Primary Examiner, Art Unit 3742